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Paper No. 18

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In re Application of :
Bennett, et al. :
Application No. 09/684,865 :
Filed: October 6, 2000 :
Atty. Dkt. No.: PSTM0019/MRK :

OFFICE OF PETITIONS

: LETTER REGARDING PTA

This letter is in response to the "STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT IN SUPPORT OF APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705(b)(2)," filed March 22, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 168 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that the PTA of 344 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(d) is incorrect, and that the correction PTA at the time of allowance was 168 days.

A review of the application history reveals that at the time of allowance, an adjustment of 840 days could be attributed to the Office.

An adjustment of 347 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). The adjustment began December 7, 2001, the day after the date that is 14 months after the date the application was filed, and ended November 18, 2002, the date of mailing of non-final Office action. See, 37 CFR 1.703(a)(1).

A further adjustment of 493 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2). The adjustment began August 18, 2003, the day after the date that is four months after the date a reply to the non-final Office action was filed,

and ended December 22, 2004, the date of mailing of Notice of Allowance. See, 37 CFR 1.703(a)(2).

The adjustment of 840 days is reduced a total of 672 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

The adjustment of 840 days is reduced 32 days in accordance with 37 CFR 1.704(b) in connection with the reply to the Notice to File Missing Parts (Notice) mailed December 4, 2000. The reduction began March 5, 2001, the day after the date that is three months after the date that the Notice was mailed, and ended April 5, 2001, the date that the reply was filed.

The adjustment of 840 days is further reduced 6 days in accordance with 37 CFR 1.704(b) in connection with the response to the non-final Office action filed February 24, 2003. The reduction began February 19, 2003, the day after the date that is three months after the date that the non-final Office action was mailed, and ended February 24, 2003, the date that a reply was filed.

The adjustment of 840 days is further reduced 52 days in accordance with 37 CFR 1.704(c)(7) in connection with the response to the non-final Office filed April 17, 2003. The reduction began February 25, 2003, the day after the date that the initial response was filed, and ended April 17, 2003, the date that the second response was filed.

The adjustment of 840 days is further reduced 438 days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement (IDS) filed June 28, 2004. The reduction began April 18, 2003, the day after the date that the second response to the non-final Office action was filed, and ended June 28, 2004, the date that the IDS was filed.

The adjustment of 840 days is further reduced 144 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed November 19, 2004. The reduction began June 29, 2004, the day after the date that an IDS was filed, and ended November 19, 2004, the date that another IDS was filed.

In view thereof, at the time of allowance, the application was entitled to a PTA of 168 days, as indicated by applicants.

As applicant is advising us of an error in providing too much patent term adjustment in this application, no fee is due in

connection to this matter. Applicants may request a refund of the previously submitted \$200.00 application fee by writing to the Finance Office, Refund Section. A copy of this letter should accompany any request for refund.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kary A. Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation